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In re Application of :  
KILDEGAARD, Casper : DECISION ON  
US Application No.: 10/501,556 :  
PCT Application No.: PCT/DK03/00013 :  
Int. Filing Date: 10 January 2003 : PETITION UNDER  
Priority Date: 11 January 2002 :  
Attorney's File Reference: 1175/72584 :  
For: AN EMBEDDING ELEMENT TO BE : 37 CFR 1.137 (b)  
EMBEDDED IN THE END PART OF A  
WINDMILL BLADE, A METHOD OF  
PRODUCING SUCH AN EMBEDDING  
ELEMENT AS WELL AS EMBEDDING OF  
SUCH EMBEDDING ELEMENTS IN A  
WINDMILL BLADE

Applicant's "Petition Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 15 July 2004 is **GRANTED**.

### **BACKGROUND**

On 10 January 2003, applicant filed international application PCT/DK03/00013. The international application claims a priority date of 11 January 2002 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 11 July 2004. The application became abandoned as of midnight on 12 July 2004 for failure to pay the basic national fee (11 July 2004 was a Sunday).

On 15 July 2004, applicant filed the instant petition for revival accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2) (including a Transmittal Letter and Preliminary Amendment), an executed declaration, and the petition fee of \$1330.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. A proper reply requires payment of the basic national fee and submission of a copy of the international application, if such a copy has not already been communicated by the International Bureau

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "the entire period of abandonment of the application nationalized by the enclosed filing under 35 U.S.C. § 371, due July 11, 2004, was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and thus, satisfies the requirements of 37 CFR 1.137(b)(3). If this is an incorrect interpretation in view of the rules, applicant is required to promptly provide a statement to that effect in response to this decision. A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to the National Stage in the United States of America.

Applicant has satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 10 January 2003 under 35 U.S.C. 363 and a date of 15 July 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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